

ATTORNEY'S DOCKET NUMBER: 0492611-0506 (MIT 9926)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Chen, *et al.* Examiner: McGarry, Sean
Serial Number: 10/674,159 Art Unit: 1635
Filed: September 29, 2003
Title: "Influenza Therapeutic"

Mail Stop: Amendment
Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

RESPONSE TO NOTICE OF DEFECTIVE REPLY

In response to the Notice of Defective Reply mailed September 4, 2007, entry and consideration of the following remarks is requested. The deadline for responding to the Notice of Defective Reply is October 4, 2007. Applicant thus submits that the present Response is timely submitted on Thursday, October 4, 2007.

The Examiner states that the response to Restriction Requirement that was submitted on June 4, 2007 is not fully responsive because Applicant did not identify which claims are encompassed within their election.

Applicant apologizes for any confusion and respectfully submits that the response to Restriction Requirement did, in fact, identify claims as requested by the Examiner. The claims that correspond to the elected species are claims 39-48, 64, 65, 69, 97, and 182. In particular, claims 39-48 correspond to SEQ ID NO.: 43.

In the interview with the Examiner on June 1, 2007, the Examiner agreed to examine claims corresponding to analogous sequences SEQ ID NOS.: 93, 94, 188, and 189. With regard to SEQ ID NOS.: 93 and 188, which correspond to sense sequences that are virtually identical to SEQ ID NO: 43, claims 64, 65, 69, 97, and 182 apply. With regard to SEQ ID NOS.: 94 and 189, which correspond to antisense sequences that are virtually identical to SEQ ID NO: 43, claims 64 and 65 apply.

During the interview, the Examiner also indicated a willingness to consider treating the set of sequences elected for claims 39-48, 64, 65, 69, 97, and 182 as an elected species rather than a restricted group, and to rejoin claims 49-58 and their NP sequences, should the first set be

allowable.

Applicant thanks the Examiner for careful consideration of this case and apologizes for any confusion regarding the previous response to Restriction Requirement. Applicant looks forward to receiving the first action on the merits and invites the Examiner to telephone the undersigned if there is any question about Applicant's position or if a conversation is otherwise warranted.

Please charge any necessary fees or credit any overpayments to our Deposit Account No. 03-1721.

Respectfully submitted,

/BHJarrell/
Brenda Herschbach Jarrell, Ph.D.
Reg. No. 39,233

Choate, Hall & Stewart LLP
Two International Place
Boston, MA 02110
bjarrell@choate.com
t (617) 248-5175
f (617) 248-4000
Date: October 4, 2007